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United States of America

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY: ECU DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.

Civil No. 08-CV 1059 LAB BLM  
COMPLAINT FOR  
FORFEITURE

ONE 2005 NISSAN TITAN  
PICKUP TRUCK, CALIFORNIA  
LICENSE NO. 7U07825,  
VIN 1N6AA07A85N522608,  
ITS TOOLS AND APPURTENANCES,  
Defendant.

By way of complaint against the defendant ONE 2005 NISSAN  
TITAN PICKUP TRUCK, CALIFORNIA LICENSE NO. 7U07825, VIN  
1N6AA07A85N522608, ITS TOOLS AND APPURTENANCES, the United States  
of America alleges:

1. This Court has jurisdiction over this action by virtue  
of the provisions of Title 28, United States Code, Section 1355,  
because the acts and omissions giving rise to the instant  
forfeiture occurred in this district.

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1           2.       Venue is proper in this district pursuant to Title 28,  
2       United States code, Section 1395 because the defendant was found  
3       in this district.

4           3.       On February 10, 2008 at approximately 2:30 p.m.,  
5       Christopher David Kenniston (hereinafter referred to as  
6       "Kenniston") arrived at the United States Border Patrol  
7       (hereinafter referred to as "USBP") Highway S-2 Checkpoint at the  
8       borderline between San Diego and Imperial Counties, north of  
9       Ocotillo in the Southern District of California. He was the  
10      driver of the defendant 2005 Nissan Titan pickup truck, VIN  
11      1N6AA07A85N522608, bearing California license plate number 7U07825  
12      (hereinafter referred to as "2005 Nissan Titan" or "defendant  
13      vehicle"). According to official records of the California  
14      Department of Motor Vehicles, Kenniston was the registered owner  
15      of the defendant vehicle. The following events transpired:

16           A.      Kenniston came to a stop at the vehicle primary  
17      inspection position. He was greeted by USBP Agent Ojeda, wearing  
18      his USBP uniform. Kenniston declared himself to be a  
19      United States citizen. Seated next to Kenniston in the front  
20      passenger seat was Jeren Lannon Ostberg (hereinafter referred to  
21      as "Ostberg"). He too advised Agent Ojeda he was a United States  
22      citizen. Seated behind Kenniston and Ostberg were three Hispanic  
23      adults. Agent Ojeda inquired of the trio as to their citizenship.  
24      None of the three responded. Agent Ojeda directed Kenniston to  
25      pull off the roadway, and into the nearby secondary inspection  
26      area.

27           B.      In secondary, the three Hispanic riders were  
28      identified as Laura Cristobal-Matiaz, Vicente Silva-Rodriguez, and

1 Julieta Jimenez-Vasconcelos. All three stated they were citizens  
2 of Mexico with no legal authority or documentation permitting them  
3 to enter or remain in the United States. They were taken into  
4 custody as undocumented aliens.

5 C. The three undocumented aliens were interviewed by  
6 USBP agents. Each described how they were guided on foot by  
7 smugglers through the back country from Mexico into the  
8 United States. After crossing into the United States, they  
9 encountered Kenniston and Ostberg. Kenniston offered to give them  
10 a ride into San Diego, California for a fee of \$1,300.00 each.  
11 The trio agreed to his terms. When they arrived at the USBP  
12 Highway S-2 checkpoint, the defendant 2005 Nissan Titan and its  
13 travelers were en route to San Diego.

14 4. The defendant 2005 Nissan Titan was a conveyance that  
15 had been used or was being used in the commission of a violation  
16 of Title 8, United States Code, Section 1324(a)(1)(A)(ii),  
17 transportation and movement or attempted transportation and  
18 movement of undocumented aliens, knowing or in reckless disregard  
19 that the alien has entered or remains in the United States in  
20 violation of law, in order to help the aliens remain in the United  
21 States illegally.

22 5. As a result of the foregoing, the defendant 2005 Nissan  
23 Titan is liable to condemnation and to forfeiture to the  
24 United States in accordance with Title 8, United States Code,  
25 Section 1324(b).

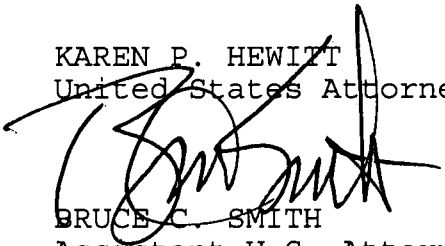
26 6. The defendant 2005 Nissan Titan is presently stored  
27 within the jurisdiction of this Court.

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1 WHEREFORE, the United States prays that due process issue to  
2 enforce the forfeiture of the defendant 2005 Nissan Titan, and  
3 that due notice be given to all interested parties to appear and  
4 show cause why said forfeiture should not be declared.

5  
6 DATED: JUNE 9, 2008

KAREN P. HEWITT  
United States Attorney

  
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9 BRUCE C. SMITH  
Assistant U.S. Attorney

VERIFICATION

I, Adrian Ojeda, state and declare as follows:

1. I am a United States Border Patrol Agent and am chiefly responsible for the investigation which is the basis for this litigation.

2. I have read the foregoing complaint and know its contents.

3. The information in the complaint was discovered during my investigation or was furnished by official Government sources. Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on June 9, 2008

  
\_\_\_\_\_  
ADRIAN OJEDA, AGENT  
U.S. BORDER PATROL

JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA Bruce C. Smith, 880 Front Street, Room 6293, San Diego, CA 92101-8893, Tel. (619) 557-6963

**DEFENDANTS**

One 2005 Nissan Titan Pickup Truck

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Richard M. Barnett, 105 W. F Street, 4th Floor, San Diego, CA 92101, Tel. (619) 231-1182

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):  
Title 8, United States Code, Section 1324(b)

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/16/2008

SIGNATURE OF ATTORNEY OF RECORD

AUSA BRUCE C. SMITH

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

CR